

1-1 By: Harris S.B. No. 1808
1-2 (In the Senate - Filed March 14, 2003; March 24, 2003, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 24, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 24, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1808 By: Harris

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the establishment of paternity and the establishment
1-11 and enforcement of child support and medical support for a child.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (a), Section 154.181, Family Code, is
1-14 amended to read as follows:

1-15 (a) ~~The [In a suit affecting the parent-child relationship~~
1-16 ~~or in a proceeding under Chapter 159, the]~~ court shall render an
1-17 order for the medical support of the child as provided by this
1-18 section and Section 154.182 in:

1-19 (1) a proceeding in which periodic payments of child
1-20 support are ordered under this chapter or modified under Chapter
1-21 156;

1-22 (2) any other suit affecting the parent-child
1-23 relationship in which the court determines that medical support of
1-24 the child must be established, modified, or clarified; or

1-25 (3) a proceeding under Chapter 159.

1-26 SECTION 2. Subsection (b), Section 154.182, Family Code, is
1-27 amended to read as follows:

1-28 (b) In determining the manner in which health insurance for
1-29 the child is to be ordered, the court shall render its order in
1-30 accordance with the following priorities, unless a party shows good
1-31 cause why a particular order would not be in the best interest of
1-32 the child:

1-33 (1) if health insurance is available for the child
1-34 through the obligor's employment or membership in a union, trade
1-35 association, or other organization at reasonable cost to the
1-36 obligor, the court shall order the obligor to include the child in
1-37 the obligor's health insurance;

1-38 (2) if health insurance is not available for the child
1-39 through the obligor's employment but is available for the child at a
1-40 reasonable cost through the obligee's employment or membership in a
1-41 union, trade association, or other organization, the court may
1-42 order the obligee to provide health insurance for the child, and, in
1-43 such event, shall order the obligor to pay additional child support
1-44 to be withheld from earnings under Chapter 158 to the obligee for
1-45 the actual cost of the health insurance for the child;

1-46 (3) if health insurance is not available for the child
1-47 under Subdivision (1) or (2), the court shall order the obligor to
1-48 provide health insurance for the child if the court finds that
1-49 health insurance is available to the obligor for the child from
1-50 another source and at reasonable cost;

1-51 (4) if neither parent has access to private health
1-52 insurance at a reasonable cost, the court shall order that the
1-53 custodial parent or, to the extent permitted by law, the
1-54 noncustodial parent immediately apply on behalf of the child for
1-55 participation in a medical assistance program under Chapter 32,
1-56 Human Resources Code, or the state child health plan under Chapter
1-57 62, Health and Safety Code, and that the obligor pay additional
1-58 child support, to be withheld from income under Chapter 158, to the
1-59 obligee for the actual cost of participation of the child in the
1-60 state child health plan [such program]; or

1-61 (5) if health coverage is not available for the child
1-62 under Subdivision (1), (2), (3), or (4), the court shall order the
1-63 obligor to pay the obligee, in addition to any amount ordered under

2-1 the guidelines for child support, a reasonable amount each month as
2-2 medical support for the child to be withheld from earnings under
2-3 Chapter 158.

2-4 SECTION 3. Section 154.188, Family Code, is amended to read
2-5 as follows:

2-6 Sec. 154.188. FAILURE TO PROVIDE OR PAY FOR REQUIRED HEALTH
2-7 INSURANCE. A parent ordered to provide health insurance or to pay
2-8 the other parent additional child support for the cost of health
2-9 insurance who fails to do so is liable for:

2-10 (1) necessary medical expenses of the child, without
2-11 regard to whether the expenses would have been paid if health
2-12 insurance had been provided; and

2-13 (2) the cost of health insurance premiums or
2-14 contributions, if any, paid on behalf of the child.

2-15 SECTION 4. Section 157.263, Family Code, is amended by
2-16 adding Subsection (c) to read as follows:

2-17 (c) If the amount of arrearages confirmed by the court
2-18 reflects a credit to the obligor for support arrearages collected
2-19 from a federal tax refund under 42 U.S.C. Section 664, as amended,
2-20 and, subsequently, the amount of that credit is reduced because the
2-21 refund was based on a joint return under which another person was
2-22 entitled to a share of the refund under 42 U.S.C. Section 664, as
2-23 amended, the court shall render a new cumulative judgment to
2-24 include as arrearages an amount equal to the amount by which the
2-25 credit was reduced.

2-26 SECTION 5. Subdivisions (1) and (4), Section 157.311,
2-27 Family Code, are amended to read as follows:

2-28 (1) "Account" means:

2-29 (A) any type of a demand deposit account,
2-30 checking or negotiable withdrawal order account, savings account,
2-31 time deposit account, money market mutual fund account, certificate
2-32 of deposit, or any other instrument of deposit in which an
2-33 individual has a beneficial ownership either in its entirety or on a
2-34 shared or multiple party basis, including any accrued interest and
2-35 dividends; and

2-36 (B) a life insurance policy in which an
2-37 individual has a beneficial ownership or liability insurance
2-38 against which an individual has filed a claim or counterclaim[
2-39 ~~including for workers' compensation~~].

2-40 (4) "Financial institution" has the meaning assigned
2-41 by 42 U.S.C. Section 669a(d)(1) and includes a depository
2-42 institution, credit union, benefit association, liability or life
2-43 insurance company, [~~workers' compensation insurer,~~] money market
2-44 mutual fund, and any similar entity authorized to do business in
2-45 this state.

2-46 SECTION 6. Section 157.312, Family Code, is amended by
2-47 adding Subsection (g) to read as follows:

2-48 (g) A child support lien under this subchapter may not be
2-49 directed to an employer to attach to the disposable earnings of an
2-50 obligor paid by the employer.

2-51 SECTION 7. Section 157.3145, Family Code, is amended to
2-52 read as follows:

2-53 Sec. 157.3145. SERVICE ON FINANCIAL INSTITUTION.

2-54 (a) Service of a child support lien notice on a financial
2-55 institution relating to property held by the institution in the
2-56 name of, or in behalf of, an obligor is governed by Section 59.008,
2-57 Finance Code, if the institution is subject to that law, or may be
2-58 delivered to the registered agent, the institution's main business
2-59 office in this state, or another address provided by the
2-60 institution under Section 231.307.

2-61 (b) A financial institution doing business in this state
2-62 shall comply with the notice of lien and levy under this section
2-63 regardless of whether the institution's corporate headquarters is
2-64 located in this state.

2-65 SECTION 8. Section 157.317, Family Code, is amended by
2-66 amending Subsection (a) and adding Subsection (a-1) to read as
2-67 follows:

2-68 (a) A child support lien attaches to all real and personal
2-69 property not exempt under the Texas Constitution or other law,

3-1 including:

- 3-2 (1) an account in a financial institution;
- 3-3 (2) ~~[7]~~ a retirement plan, including an individual
- 3-4 retirement account; and
- 3-5 (3) ~~[7]~~ the proceeds of a life insurance policy, a
- 3-6 claim for negligence, or personal injury, ~~[or workers'~~
- 3-7 ~~compensation,]~~ or an insurance settlement or award for the claim,
- 3-8 due to or owned by the obligor.

3-9 (a-1) A lien attaches on or after the date the lien notice or
3-10 abstract of judgment is filed with the county clerk of the county in
3-11 which the property is located, with the court clerk as to property
3-12 or claims in litigation, or, as to property of the obligor in the
3-13 possession or control of a third party, from the date the lien
3-14 notice is filed with that party.

3-15 SECTION 9. Subchapter C, Chapter 158, Family Code, is
3-16 amended by adding Section 158.213 to read as follows:

3-17 Sec. 158.213. WITHHOLDING FROM WORKERS' COMPENSATION
3-18 BENEFITS. (a) An insurance carrier that receives an order or writ
3-19 of withholding under Section 158.206 for workers' compensation
3-20 benefits payable to an obligor shall withhold an amount not to
3-21 exceed the maximum amount allowed to be withheld from income under
3-22 Section 158.009 regardless of whether the benefits payable to the
3-23 obligor for lost income are paid as lump sum amounts or as periodic
3-24 payments.

3-25 (b) An insurance carrier subject to this section shall send
3-26 the amount withheld for child support to the place of payment
3-27 designated in the order or writ of withholding.

3-28 SECTION 10. Subsection (b), Section 160.204, Family Code,
3-29 is amended to read as follows:

3-30 (b) A presumption of paternity established under this
3-31 section may be rebutted only by:

- 3-32 (1) an adjudication under Subchapter G; or
- 3-33 (2) the filing of a valid denial of paternity by a
- 3-34 presumed father in conjunction with the filing by another person of
3-35 a valid acknowledgment of paternity as provided by Section 160.305.

3-36 SECTION 11. Section 160.633, Family Code, is amended to
3-37 read as follows:

3-38 Sec. 160.633. FINAL ORDER AVAILABLE FOR PUBLIC [HEARINGS,]
3-39 INSPECTION [OF RECORDS]. [(a) On the request of a party and for
3-40 good cause shown, the court may order a proceeding under this
3-41 subchapter closed to the public.

3-42 ~~[(b)]~~ A final order in a proceeding under this subchapter is
3-43 available for public inspection. ~~[Other papers and records are~~
3-44 ~~available only with the consent of the parties or on order of the~~
3-45 ~~court for good cause.]~~

3-46 SECTION 12. Subsection (c), Section 231.002, Family Code,
3-47 is amended to read as follows:

3-48 (c) The Title IV-D agency may enter into agreements or
3-49 contracts with federal, state, or other public or private agencies
3-50 or individuals for the purpose of carrying out the agency's
3-51 responsibilities under federal or state law [this chapter]. The
3-52 agreements or contracts between the agency and other state agencies
3-53 or political subdivisions of this or another [the] state, including
3-54 a consortia of multiple states, and agreements or contracts with
3-55 vendors for the delivery of program services are not subject to
3-56 Chapter 771 or 783, Government Code.

3-57 SECTION 13. Subsection (h), Section 231.007, Family Code,
3-58 is amended to read as follows:

3-59 (h) The amount of weekly workers' compensation benefits
3-60 that may be withheld or assigned under this section may not exceed
3-61 ~~[the percentage of the person's benefits that would apply if the~~
3-62 ~~benefits equalled the person's monthly net resources as provided by~~
3-63 ~~Chapter 154, except that in no event may more than]~~ 50 percent of
3-64 the person's weekly compensation benefits ~~[be withheld or~~
3-65 ~~assigned].~~ The comptroller or a state agency may rely on a
3-66 representation by the Title IV-D agency that a withholding or
3-67 assignment under this section would not violate this subsection.

3-68 SECTION 14. Subsection (b), Section 231.104, Family Code,
3-69 is amended to read as follows:

4-1 (b) An application for child support services is an
4-2 assignment of support rights[~~, to the extent permitted by federal~~
4-3 ~~law,~~] to enable the Title IV-D agency to establish and enforce child
4-4 support and medical support obligations, but an assignment is not a
4-5 condition of eligibility for services.

4-6 SECTION 15. Section 231.108, Family Code, is amended by
4-7 adding Subsection (g) to read as follows:

4-8 (g) The final order in a suit adjudicating parentage is
4-9 available for public inspection as provided by Section 160.633.

4-10 SECTION 16. Subsection (a), Section 232.013, Family Code,
4-11 is amended to read as follows:

4-12 (a) The court or Title IV-D agency may render an order
4-13 vacating or staying an order suspending an individual's license if
4-14 [~~the individual has~~]:

4-15 (1) the individual has:

4-16 (A) paid all delinquent child support or has
4-17 established a satisfactory payment record;

4-18 (B) [~~2~~] complied with the requirements of a
4-19 reissued subpoena; or

4-20 (C) [~~3~~] complied with the terms of any court
4-21 order providing for the possession of or access to a child; or

4-22 (2) the court or Title IV-D agency determines that
4-23 good cause exists for vacating or staying the order.

4-24 SECTION 17. Subsection (a), Section 233.018, Family Code,
4-25 is amended to read as follows:

4-26 (a) If a negotiation conference results in an agreement of
4-27 the parties, each party must sign the child support review order and
4-28 the order must contain as to each party:

4-29 (1) a waiver by the party of the right to service of
4-30 process and a court hearing [~~and the making of a record on the~~
4-31 ~~petition for confirmation~~];

4-32 (2) the mailing address of the party; and

4-33 (3) the following statement printed on the order in
4-34 boldfaced type, in capital letters, or underlined:

4-35 "I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THIS CHILD
4-36 SUPPORT REVIEW ORDER. I UNDERSTAND THAT IF I SIGN THIS ORDER, IT
4-37 WILL BE CONFIRMED BY THE COURT WITHOUT FURTHER NOTICE TO ME. I KNOW
4-38 THAT I HAVE A RIGHT TO REQUEST THAT A COURT RECONSIDER THE ORDER BY
4-39 FILING A MOTION FOR A NEW TRIAL AT ANY TIME BEFORE THE 30TH DAY AFTER
4-40 THE DATE OF THE CONFIRMATION OF THE ORDER BY THE COURT. I KNOW THAT
4-41 IF I DO NOT OBEY THE TERMS OF THIS ORDER I MAY BE HELD IN CONTEMPT OF
4-42 COURT."

4-43 SECTION 18. Subsection (a), Section 233.024, Family Code,
4-44 is amended to read as follows:

4-45 (a) On the filing of an agreed child support review order
4-46 signed by all parties, together with [~~If the court finds that all~~
4-47 ~~parties have appropriately agreed to a child support review order~~
4-48 ~~and that there is]~~ waiver of service, the court shall sign the order
4-49 not later than the third day after the filing of the order. The
4-50 court may sign the order before filing the order, but the signed
4-51 order shall immediately be filed.

4-52 SECTION 19. Section 233.026, Family Code, is amended to
4-53 read as follows:

4-54 Sec. 233.026. TIME FOR COURT HEARING. (a) When a timely
4-55 request for a court hearing has been filed as provided by Section
4-56 233.023, the [A] court shall hold a hearing on the confirmation of a
4-57 child support review order that has not been agreed to by the
4-58 parties not later than the 30th day after the date the [~~last party~~
4-59 ~~to be served files a timely]~~ request was filed [~~for a court~~
4-60 hearing].

4-61 (b) A court may not hold a hearing on the confirmation of a
4-62 nonagreed child support review order if a party does not timely
4-63 request a hearing as provided by Section 233.023.

4-64 (c) If the court resets the time of the hearing, the reset
4-65 hearing shall be held not later than the 30th day after the date set
4-66 for the initial hearing.

4-67 SECTION 20. Section 233.027, Family Code, is amended by
4-68 adding Subsection (c) to read as follows:

4-69 (c) If the party who requested the hearing fails to appear

5-1 at the hearing, the court shall sign a confirmation order and enter
5-2 the order as an order of the court.

5-3 SECTION 21. Subsection (a), Section 192.005, Health and
5-4 Safety Code, is amended to read as follows:

5-5 (a) The items on a birth certificate relating to the child's
5-6 father shall be completed only if:

5-7 (1) the child's mother was married to the father:

5-8 (A) at the time of the child's conception;

5-9 (B) at the time of the child's birth; or

5-10 (C) after the child's birth;

5-11 (2) paternity is established by order of a court of
5-12 competent jurisdiction; or

5-13 (3) a valid acknowledgment of paternity executed by
5-14 the father has been filed with the bureau of vital statistics as
5-15 provided by Subchapter D, Chapter 160, Family Code [~~the father~~
5-16 ~~signed the birth certificate or consented in writing, on a form~~
5-17 ~~prescribed by the department, to be named as the father of the child~~
5-18 ~~on the child's birth certificate].~~

5-19 SECTION 22. Subsection (b), Section 408.203, Labor Code, is
5-20 amended to read as follows:

5-21 (b) A benefit that is subject to a lien or claim for payment
5-22 of court-ordered child support shall be paid as required by[+]

5-23 [~~(1)~~] an order or writ of income withholding [~~income~~]
5-24 under [~~Subchapter A,~~] Chapter 158, Family Code [~~, or~~

5-25 [~~(2)~~] a writ of income withholding under Subchapter D,
5-26 Chapter 158, Family Code].

5-27 SECTION 23. Subsection (b), Section 192.005, Health and
5-28 Safety Code, is repealed.

5-29 SECTION 24. (a) This Act takes effect September 1, 2003.

5-30 (b) The change in law made by this Act relating to a court
5-31 order establishing paternity or the obligation to pay child support
5-32 applies only to a suit affecting the parent-child relationship
5-33 filed on or after the effective date of this Act. A suit affecting
5-34 the parent-child relationship filed before the effective date of
5-35 this Act is governed by the law in effect on the date the suit was
5-36 filed, and the former law is continued in effect for that purpose.

5-37 (c) The change in law made by this Act relating to the
5-38 modification or enforcement of a child support order rendered
5-39 before the effective date of this Act applies only to a proceeding
5-40 for modification or enforcement that is commenced on or after the
5-41 effective date of this Act. A proceeding for modification or
5-42 enforcement that is commenced before the effective date of this Act
5-43 is governed by the law in effect on the date the proceeding was
5-44 commenced, and the former law is continued in effect for that
5-45 purpose.

5-46 * * * * *